

**REMARKS/ARGUMENTS**

This application has been reconsidered carefully in light of the Office Action dated as mailed on 05 February 2003. A careful reconsideration of the application by the Examiner in light of the foregoing amendments and the following remarks is respectfully requested.

5                    This response is timely filed as it is filed within the three (3) month shortened statutory period for response to the outstanding Office Action.

10                   There is no additional claim fee due for this Amendment because the total number of claims does not exceed the number of independent and dependent claims for which fees have previously been paid. Further, with regard to the subject matter of any canceled claims, Applicants respectfully reserve the right to pursue claims relating to such subject matter in an appropriately filed continuing application.

Claims 28-30, 32-43, 45, 46, 48-52 and 54-55 and 57-59 remain in the application.

**Amendment to the Claims**

15                   By the above,

1.        Claims 28, 45 and 54 have been rewritten to recite that the gasket element includes a face portion, at least one base portion and at least one thrust portion, to clarify that it is the thrust portion that comprises the compression resistant member, and to recite that the compression resistant member is discrete. Further,

claim 34 has been rewritten to recite that each of the pair of opposed thrust portions comprises a discrete compression resistant member. Such rewritten claims are supported in the specification such as on page 18, lines 1-11 and also by FIGS. 5 and 6. Specifically, FIG. 5 shows a discrete compression resistant member 136 associated with the thrust portions (leg portions) 132 and FIG. 6 shows discrete compression resistant members 166 associated with the thrust portions (leg portions) 162.

2. Claims 32 and 35 have each been respectively rewritten to delete “a soft” and to insert “an inner” before “covering.” Such rewritten claims find support in the specification such as on page 18, line 20 to page 19, line 2, for example.

3. Claims 43 and 52 have been rewritten to delete recitations of “leg member” for consistency with independent claim 28.

4. Claim 46 has been rewritten for consistency with rewritten underlying claim 45.

5. Claims 47 and 56 have been canceled without prejudice.

#### **Summary of 02 April 2003 Interview**

The undersigned wishes to thank Examiner Reichle for the many courtesies extended during the above-identified telephonic interview.

Matters discussed in the referenced interview included: the outstanding Office Action dated 05 February 2003 and, more particularly, U.S. Patent 3,951,150

to Schaar (hereinafter "Schaar") and possible amendments to the claims to more clearly differentiate the claimed invention from the prior art.

The Examiner suggested that amending the claims to more clearly set forth the structure of the gasketing assembly by reciting the base portion, face portion and the thrust portion, and also to recite a "discrete" compression resistant member associated only with the thrust portion may be helpful in patentably distinguishing the subject invention development from Schaar.

Although no specific agreement was reached, Applicants offer the above amendments and the following comments.

#### **Objections to the Claims**

1. The Action states in paragraph 2 on page 2 that claims 32 and 38 are objected to because of informalities.

Regarding claim 32, the Action states that after "member," --thrust portion-- should be inserted. Claim 32 depends from claim 28. Claim 28 has been herein above rewritten to recite that the at least one thrust portion includes at least one compression resistant member. Therefore, the insertion of --thrust portion-- should no longer be necessary and notification to that effect is solicited..

Regarding claim 38, the Action states that "a" should be --the--.. Claim 38 recites "a body of the wearer." Claim 38 depends on claim 37. Claim 37 depends on claim 36, which in turn depends on claim 28. Although claim 28, as above

amended herein, recites “a waist of a wearer” and “a bodyfacing surface,” neither claim 28 nor either of the intervening claims 36 or 37 recite “a body of the wearer.” Therefore, if “a” were changed to --the-- in claim 38, it would appear that there would be no proper antecedent for “the body” of the wearer

5                   In view of the above, such basis of objection is not believed appropriate and reconsideration of such objection is requested.

2.       The Action states in paragraph 4 on pages 2-3 that should claims 28 and 33 be found allowable, claims 30 and 34 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

10                  Reconsideration of each such “conditional” objection is respectfully requested.

Claim 30 requires that “the gasket element face portion deploys **adjacent** the rear waist of the wearer.” (Emphasis added.) Claim 30 depends on claim 28.

15                  Claim 28, as above amended, states that “the at least one thrust portion effective to deploy the gasket element face portion **toward** the rear waist of the wearer.” (Emphasis added.)

20                  The specification clearly distinguishes between “toward” and “adjacent.” As stated on page 16, lines 3-5, “the face portion 96 of the gasketing assembly element 74 is thrust or otherwise projected, as signified by the arrows 104,

in a direction away from the stretchable band 60 and **towards, preferably adjacent,** the body of the wearer.” (Emphasis added.) It is clear from this text that the word “toward” is not a substantial duplicate of the word “adjacent.”

5 In addition and as previously submitted by way of the “Amendment After Final Rejection” dated 09 August 2002, THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE definitions of the terms “toward” and “adjacent” are enclosed herewith for the Examiner’s benefit. As stated in these definitions, “toward” is a preposition meaning “in the direction of.” “Adjacent” is an adjective meaning “close to; next to; lying near; adjoining.”

10 It is respectfully submitted that deployment “toward” the rear waist of the wearer, as required in claim 28, is not the same as deployment “adjacent” the rear waist of the wearer, as required by claim 30. For example, a gasket element face portion can be deployed “**toward** the rear waist of the wearer” without necessarily being deployed “**adjacent** the rear waist of the wearer.”

15 In view of the above, such basis of objection is not believed appropriate and reconsideration of the assertion that claim 30 is a substantial duplicate of claim 28 is requested.

With respect to claim 34, this claim has been above rewritten to require that each of the pair of opposed thrust portions comprises a discrete compression resistant member. Claim 34 serves to further limit claim 33 and is not believed to be a “substantial” duplicate thereof.

5 In view of the above, such basis of objection is not believed appropriate and reconsideration of the assertion that claim 34 is a substantial duplicate of claim 33 is requested.

**Claim Rejections - 35 U.S.C. §112**

10 In paragraph 3 on page 2 of the Office Action, claims 34-35 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15 By the above, claims 34 and 35 as well as underlying independent claim 28 have each been rewritten such that these rejections of claims 34 and 35 are overcome or clearly no longer appropriate and notification to that effect is solicited.

**Claim Rejections - 35 U.S.C. §102(b)**

Claims 28-30, 32-43, 45-52 and 54-59 were rejected under 35 U.S.C. 102(b) as being anticipated by Schaar.

20 These rejections of claims 47 and 56 are obviated by the above cancellation of these claims.

These rejections of claims 28-30, 32-43, 45, 46, 48-52, 54-55 and 57-59 are respectfully traversed.

The Office Action indicates that Schaar teaches a compression resistant member as at least a portion of panels A, B, D, E of the gasketing assembly 48 (“end section”) and that multiple layers (i.e., the topsheet and the backsheets), and optionally the absorbent pad, would resist compression.

Independent claims 28, 45 and 54 have each been rewritten to require that the gasketing assembly includes a face portion, at least one base portion, and at least one thrust portion, with the thrust portion including a discrete compression resistant member. The discrete compression resistant member, as shown in Applicants’ FIGS. 5-6, is included only with the thrust portion. No discrete compression resistant member is included with either the face or base portions.

As described in the specification on page 18, lines 3-11, the compression resistant member is rigid and can be composed of a plastic sheet material such as polyurethane or polyethylene or a stiff paper product such as cardboard or the like. By including the compression resistant member only with the thrust portions, and not the face portion or the base portions, the rigidity of the gasketing assembly element can be localized to the thrust portion, or intermittent (i.e., located only at the thrust portions) across the span of the gasketing assembly element. In addition, the flexibility of the face portion can be maintained by including the compression

resistant member with only the thrust portions as a rigid face portion would be uncomfortable against the back of the wearer of the absorbent article.

Schaar does not disclose a gasketing assembly element having a face portion, at least one base portion and at least one thrust portion, with only the thrust portion having a discrete compression resistant member associate therewith. Moreover, Schaar does not contemplate such localization of rigidity in the end section 48 of the diaper thereof, in direct contrast to absorbent articles and methods herein claimed.

### Conclusion

It is believed that the above Amendment places all pending claims in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned to schedule a telephone interview to discuss the merits of any remaining issue the Examiner may identify to expedite examination of the application.

Respectfully submitted,



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OF THE ENGLISH LANGUAGE

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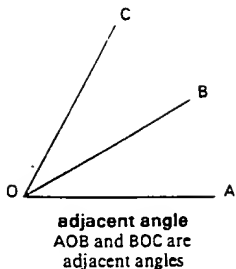
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Library of Congress Catalog Card Number 76-86995

Manufactured in the United States of America

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"The touchstone of an art is its precision." (Ezra Pound).

**touch-type** (tūch'up) *intr.v.* -typed, -typing, -types. To type without having to look at the keyboard, the fingers being trained to locate the keys by position.

**touch up**. To make minor changes, additions, or improvements in a work, for example.

**touch-up** (tūch'up) *n.* The act or process of finishing or improving by small alterations and additions.

**touch-wood** (tūch'wud) *n.* Decayed wood or similar material used as tinder; punk. [From TOUCH (in the rare sense of "to kindle").]

**touchy** (tūch'ē) *adj.* -ier, -iest. 1. Apt to take offense with very slight cause; oversensitive; irritable. 2. Requiring tact or skill; precarious; risky: a *touchy situation*. 3. Sensitive to touch. Said of a bodily part. 4. Easily ignited; flammable. —*touch'i-ly adv.* —*touch'i-ness n.*

**tough** (tūf) *adj.* tougher, toughest. 1. Strong and resilient; able to withstand great strain without tearing or breaking. 2. Hard to cut or chew. 3. Physically hardy; rugged. 4. Severe; harsh. 5. Aggressive; pugnacious. 6. Demanding or troubling; difficult. 7. Strong-minded; resolute. 8. Vicious; rough. 9. *Informal*. Unfortunate; too bad. —See Synonyms at *strong*. —*n.* A hoodlum; thug. [Middle English *togh*, Old English *tōh*. See *denk* in Appendix.\*] —*tough'ly adv.* —*tough'ness n.*

**tough-en** (tūf'en) *v.* -ened, -ening, -ens. —*tr.* To make tough. —*intr.* To become tough. —*tough'en-er n.*

**tough-mind-ed** (tūf'min'did) *adj.* Not sentimental or timorous. —*tough'-mind'ed-ly adv.* —*tough'-mind'ed-ness n.*

**Tou-lon** (tū-lōn) *n.* A city of southeastern France, a seaport and naval base on the Mediterranean. Population, 175,000.

**Tou-louse** (tū-lōz) *n.* A city of southwestern France, a cultural and industrial center on the Garonne. Population, 371,000.

**Tou-louse-Lau-trec** (tū-lōz'lō-trék') *n.* Full name, Henri Marie Raymond de Toulouse-Lautrec Monfa. 1864-1901. French painter and lithographer.

**tou-pee** (tū-pā) *n.* 1. A partial wig or hair piece worn to cover a bald spot. 2. A curl or lock of hair worn during the 18th century as a topknot on a periwig. [French *toupet*, a tuft of hair, forelock, from Old French, from *top*, *toup*, top, summit, from Frankish *topp* (unattested). See *tap* in Appendix.\*]

**tour** (tūr) *n.* 1. A comprehensive trip with visits to places of established interest. 2. A group organized for such a trip or for a shorter sightseeing excursion. 3. A brief trip to or through a place for the purpose of seeing it: a *tour of the house*. 4. A journey to fulfill a round of engagements in several places: a *concert tour*. 5. A shift, as in a factory. 6. A period of duty at a single place or job. —*v.* toured, touring, tours. —*intr.* To go on a tour. —*tr.* 1. To make a tour of. 2. To present (a theatrical performance) on a tour. [Middle English, one's turn, a turning, from Old French *tour*, *tuurn*, turn, circuit, from Latin *tornus*, tool for drawing a circle, lathe. See *turn*.]

**tour-ra-co** (tūr'ā-kō) *n., pl. -cos.* Also *tu-ra-co*. Any of various African birds of the family Musophagidae, many of which have brightly colored plumage. [French, from a native West African name.]

**Tou-raine** (tūr-rēn'). A region and former province of west-central France.

**Tou-rane**. The former name for Da Nang.

**tour-bil-lion** (tūr-bil'yan) *n.* 1. a. A whirlwind. b. A vortex, as of a whirlwind or whirlpool. 2. A skyrocket that has a spiral flight. [Old French *tourbillon*, from Latin *turbō* (stem *turb-*), whirlwind, circular movement. See *turbine*.]

**Tour-coing** (tūr-kwān'). A city of France, in the north near the Belgian border. Population, 89,000.

**tour de force** (tūr dā fōrs'). *French*. A feat of strength or virtuosity.

**Tou-ré** (tūr-rā'). Sékou. Born 1922. Guinean statesman; president (since 1958).

**touring car**. A large open automobile for five or more persons, popular in the 1920's.

**tour-ism** (tūr'iz'm) *n.* Also *tour-is-try* (tūr'i-strē) (for sense 1). 1. The practice of traveling for pleasure. 2. The business of providing tours and services for tourists.

**tour-ist** (tūr'ist) *n.* A person who is traveling for pleasure. —*adj.* Also *tour-is-tic* (tūr-is'tik). Of or for tourists.

**tourist class**. A grade of travel accommodations less luxurious than first class or cabin class.

**tour-ma-line** (tūr-mā-lin, -lēn') *n.* Also *tur-ma-line*. A complex crystalline silicate containing aluminum, boron, and other elements, used in electronic instrumentation and, especially in its green, clear, and blue varieties, as a gemstone. [French, from Singalese *toramalli*, carnelian.]

**tour-na-ment** (tūr'nā-mēnt, tūr'n-) *n.* 1. A contest involving a number of contestants who compete in a series of elimination games or trials. 2. A medieval sport in which mounted contestants endeavored to unseat one another with blunted lances or swords; jousting match. [Middle English *tourneiment*, from Old French *toirneiment*, from *toirneier*, to *TOURNEY*.]

**tour-ne-dos** (tūr'nā-dōs; *French* tūr'nā-dōs') *n., pl. -dos*. A fillet of beef cut from the tenderloin, often bound in bacon or suet for cooking. [French: *tourner*, to *TURN* + *dos*, back, from Latin *dorsum* (see *dorsal*).]

**Tour-neur** (tūr'nōr), Cyril. 1575?-1626. English dramatist.

**tour-ne-y** (tūr'nē, tūr'n-) *intr.v.* -neyed, -neying, -neys. To compete in a tournament. —*n., pl. tourneys*. A tournament. [Middle English *toirneyen*, from Old French *toirneier*, "to turn around" (from the combatants' turning around for each attack), from Vulgar Latin *tornidiare* (unattested), to wheel, turn, from Latin *tornus*, a lathe. *TURN*.]

**tour-ni-quet** (tūr'ni-kīt, -kā, tūr'n-) *n.* Any device used to stop temporarily the flow of blood through a large artery in a limb, especially, a cloth band tightened around a limb, often over a pad placed to focus pressure on the artery. [French, "a turning instrument," swivel, perhaps from *tourner*, to *TURN*.]

**Tours** (tūr). A city of west-central France on the Loire; the site of the defeat of the Saracens by Charles Martel (A.D. 732). Population, 126,000.

**tou-zle** (tū'zəl) *tr.v.* -sied, -sling, -sies. Also *tou-zle*. To disarrange or rumple; dishevel. —*n.* Also *tou-zle*. A disheveled mass, as of hair. [Middle English *touselen*, frequentative of *-luse*, to pull about.]

**Tous-saint L'Ou-ver-ture** (tū-sān' lō-vēr-tūr'), Pierre Do-minique. 1743-1803. Haitian general, liberator, and administrator (1801-02).

**tout** (tout) *v.* touted, touting, tous. *Informal*. —*intr.* 1. To solicit customers, votes, or patronage, especially in a brazen way. 2. To obtain and deal in horseracing information. —*tr.*

1. To solicit or importune. 2. To obtain or sell information on (a racing horse or stable) for the guidance of bettors. 3. To publicize as being of great worth; praise as if peddling: a *rookie highly touted by the press*. —*n. Informal*. 1. A person who obtains information on racehorses and their prospects and sells it to bettors. 2. A person who solicits customers persistently or brazenly. [Middle English *tuten*, to peep, watch, Old English *tūtan* (unattested), from Germanic *tūt-* (unattested), to stick out, protrude.] —*tout'er n.*

**to-va-risch** (tō-vār'ish) *n.* Also *to-va-rish*, *to-va-rich*. *Russian* Comrade. Used in direct address.

**to-ward** (tō-vārd) *tr.v.* towed, towing, tows. To draw or pull along by a chain or line. —*n.* 1. a. An act of towing. b. The condition of being towed. 2. Something being towed, as a barge or car. 3. Something that tows, as a tugboat. 4. A rope or cable used in towing. —*in tow*. 1. Being towed or drawn along. 2. Under one's sway or control; in one's charge. [Middle English *togen*, *towen*, Old English *togian*. See *deuk* in Appendix.\*]

**to-ward** (tō) *n.* Coarse broken flax or hemp fiber prepared for spinning. [Middle English *towe*, probably Old English *tow*, "spinning." See *taw* in Appendix.\*]

**to-ward** (tō'j) *n.* 1. The act or service of towing. 2. A charge for towing.

**to-ward** (tōrd, tōrd, tō-wōrd') *prep.* Also *to-wards* (tōrdz, tōrdz, tō-wōrdz'). 1. In the direction of. 2. In a position facing. 3. Somewhat before in time; approaching: *It began to rain toward morning*. 4. With regard to; in relation to. 5. In furtherance or partial fulfillment of. 6. By way of achieving; with therance or partial fulfillment of. 7. By way of achieving; with therance or partial fulfillment of. 8. By way of achieving; with therance or partial fulfillment of. 9. By way of achieving; with therance or partial fulfillment of. 10. By way of achieving; with therance or partial fulfillment of. 11. By way of achieving; with therance or partial fulfillment of. 12. By way of achieving; with therance or partial fulfillment of. 13. By way of achieving; with therance or partial fulfillment of. 14. By way of achieving; with therance or partial fulfillment of. 15. By way of achieving; with therance or partial fulfillment of. 16. 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